UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA

JEREMIE BARLOW, Plaintiff, - against - THE MCCLATCHY COMPANY Defendant.	Case No. 17-CV-201 JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Jeremie Barlow ("Barlow" or "Plaintiff") by and through her undersigned counsel, as and for her Complaint against Defendant The McClatchy Company ("McClatchy" or "Defendant") hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant's unauthorized reproduction and public display of two copyright photographs of Oprah Winfrey, owned and registered by Barlow, a Connecticut based celebrity and event photojournalist. Accordingly, Barlow seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq*.

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq*., and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or are doing business in North Carolina.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Barlow is a professional photojournalist in the business of photographing celebrity events, weddings and corporate events having a usual place of business at 82 Little Meadow Road, Guilford, Connecticut 06437. Barlow's photographs have appeared in many publications around the United States.

6. Upon information and belief, McClatchy is a corporation duly organized and existing under the laws of the State of Delaware, with a place of business at 550 South Caldwell Street, Charlotte, North Carolina 28202. At all times material hereto, McClatchy has owned and operated three websites at the URL's: www.charlotteobserver.com, www.fresnobee.com, and www.modbee.com (the "Websites").

STATEMENT OF FACTS

A. Background and Plaintiff's Ownership of the Photograph

7. On April 28, 2012, Barlow photographed Oprah Winfrey at an event in Charlotte, North Carolina (the "Photographs"). A true and correct copy of the Photographs are attached hereto as Exhibit A.

8. Barlow is the author of the Photographs and has at all times been the sole owner of all right, title and interest in and to the Photographs, including the copyrights thereto.

9. The Photographs are registered with the United States Copyright Office and was given registration number VA 2-009-058.

B. Defendant's Infringing Activities

10. Upon information and belief, on or about May 12, 2016, McClatchy ran an article on the Websites entitled *Event planner lost his biggest customer: Oprah*. *Here's what he did next.* See http://www.charlotteobserver.com/news/business/small-business/article77063757.html,

http://www.fresnobee.com/news/nationworld/national/article77227362.html, http://www.modbee.com/news/nationworld/national/article77227362.html and also on the Charlotte Observer Twitter feed. The articles prominently featured the Photographs. A true and correct copy of the articles are attached hereto as Exhibit B.

11. McClatchy did not license the Photograph from Plaintiff for its articles, nor did McClatchy have Plaintiff's permission or consent to publish the Photograph on its Websites.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST MCCLATCHY)
(17 U.S.C. §§ 106, 501)

12. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-11 above.

13. McClatchy infringed Plaintiff's copyright in the Photographs by reproducing and publicly displaying the Photographs on the Websites. McClatchy is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photographs.

14. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

15. Upon information and belief, the foregoing acts of infringement by McClatchy have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

16. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and Defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

17. Defendant's conduct, described above, is causing, and unless enjoined and restrained by this Court, will continue to cause Plaintiff irreparable injury that cannot be fully compensated by or measured in money damages. Plaintiff has no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant McClatchy be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. Plaintiff be awarded Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded pre-judgment interest; and
5. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Charlotte, North Carolina
April 13, 2017

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